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In re Application of :
DAUTREPPE et al. :
Application No.: 09/931,918 : DECISION ON
PCT No.: PCT/FR99/02899 :
Int. Filing Date: 24 November 1999 : PETITION UNDER
Priority Date: 25 November 1998 :
Attorney Docket No.: 01107 : 37 CFR 1.137(b)
For: EASY-TO-OPEN COVERS :

This decision is in response to applicants' "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)" filed 29 May 2001.

BACKGROUND

On 24 November 1999, applicant filed international application PCT/FR99/02899, which claimed a priority date of 25 November 1998. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 02 June 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 26 May 2000. Accordingly, the thirty-month period for paying the basic national fee in the United States expires at midnight on 25 May 2001.

On 29 May 2001, applicants filed, *inter alia*, a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee, an English translation of the international application, and the instant "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)".

On 10 July 2001, the USPTO mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors was required.

On 07 August 2001, applicants submitted a "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS" which was accompanied by an executed declaration of inventors.

On 28 August 2001, the USPTO mailed a NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 (Form PCT/DO/EO/903) according the application a 35 U.S.C. 371(c) date of 07 August 2001.

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:

- (1) The required reply;
- (2) The petition fee;
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicants submitted the basic national fee on 29 May 2001.

As to item (2), applicants submitted the petition fee of \$1,240.00 on 29 May 2001.

With regard to item (3), petitioner has provided the required statement.

The declaration filed 07 August 2001 complies with 37 CFR 1.497(a)-(b). However, the processing fee (\$130) under 37 CFR 1.492(f) for providing an English translation later than 30 months from the priority date has not been paid. As noted in 37 CFR 1.495(c)(2), the payment of the processing fee set forth in 37 CFR 1.492(f) is required for acceptance of an English translation later than the expiration of 30 months after the priority date. Accordingly, the English translation filed 29 May 2001 should not have been accepted. The NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 (Form PCT/DO/EO/903) mailed 28 August 2001 is hereby VACATED.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

The NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 (Form PCT/DO/EO/903) mailed 28 August 2001 is **VACATED**.

Please direct any further correspondence with respect to this matter to the Commissioner of Patents and Trademarks, Box PCT, Washington, D.C. 20231, and address the

contents of the letter to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including preparing and mailing a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) requiring the processing fee under 37 CFR 1.492(f) for providing the translation of the application and the Annexes later than the appropriate 30 months from the priority date.



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